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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,943	12/30/2005	Eberhard Schoch	10191/4235	2586
26646 7590 06/27/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			EXAMINER WILLIAMS, ARUN C	
			ART UNIT 2838	PAPER NUMBER
			MAIL DATE 06/27/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/542,943

Applicant(s)

SCHOCH, EBERHARD

Examiner

ARUN WILLIAMS

Art Unit

2838

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-850)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 3/20/2007 and 1/24/2008

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11,15-17,18,19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kato, US2002/0060553.

As for claim 11, Kato discloses and shows in Fig. 1 a device for ascertaining an amount of charge that is able to be drawn from an energy storage unit, up to at least one specified cutoff threshold, comprising: a charge predictor (1) for calculating, in the case of a specified discharge current characteristic, the amount of charge that is able to be drawn from the energy storage unit, on the basis of a mathematical energy storage model that mathematically represents electrical properties of the energy storage unit; and an estimator (11) for ascertaining at least one of state variables and parameters for the mathematical energy storage model, based on operating performance quantities of the energy storage unit; voltage predictor (also element 1) (par. [0030-0033])

As for claims 15-17, Kato discloses the charge predictor ascertains an amount of charge that is able to be drawn until a specified minimum electrolyte voltage that represents a first cutoff, second and third criterion is reached. (par.[0038-0039])

Claims 19 and 20 are implicit in the structure and they recite the same elements in a method format.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato in view of Xia et al.(Xia), US2002/0120906**

As for claim 12-14, Kato differs from the claimed invention because he does not explicitly disclose the mathematical energy storage model is a battery model that includes at least a mathematical model for an internal resistance, an acid diffusion resistance, and a charge transfer polarization

Xia discloses the mathematical energy storage model is a battery model that includes at least a mathematical model for an internal resistance, an acid diffusion resistance, and a charge transfer polarization (par. [0259-0322])

Xia is evidence that ordinary skill in the art would find a reason, suggestion or motivation to use a mathematical model for an internal resistance, an acid diffusion resistance, and a charge transfer polarization.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the gaming device of Loose by using a mathematical model for an internal resistance, an acid diffusion resistance, and a charge transfer polarization for advantages such as providing the ability to predict operating conditions over a wide range (par.0013)), as taught by Xia.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arun Williams whose telephone number is 571-272-9765. The examiner can normally be reached on Mon - Wed, Fri 6:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Akm Ullah can be reached on 571-272-2361. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2838

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Arun Williams
Examiner
Art Unit 2838

/A. W./
Examiner, Art Unit 2838

*/Bao Q. Vu/
Primary Examiner, Art Unit 2838
June 23, 2008*